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APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/608,143  
FILED: June 30, 2003  
Page 8**REMARKS**

Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the following remarks. Applicants request entry of this amendment because the amendment places the pending claims in condition for allowance.

**Status of Claims**

Claims 1-39 are pending in the application. Claims 1-3, 10-15, 22-26, 30, 32-34, 36, and 37 have been amended. Claims 7-9, and 19-21 have been cancelled without prejudice or disclaimer. New dependent Claims 40 and 41 have been added. Applicants respectfully assert that no new matter has been added.

**Claim Rejections****35 U.S.C. § 102 Rejections**

In the Office Action, the Examiner rejected Claims 1-4, 6, 10-16, 18, 22-29, 36-39 under 35 U.S.C. § 102(e), as being anticipated by Beach et al. (US Publication No. 2004/0072588 A1). Applicants respectfully traverse this rejection in view of the remarks that follow.

Applicants respectfully submit that in view of the foregoing amendment, the rejection of Claims 1-4, 6, 10-16, 18, 22-29, 36-39 under 35 U.S.C. § 102(e), as being anticipated by Beach should be withdrawn.

Each of amended independent Claims 1, 13, 25, and 36 recites in paraphrase, *inter alia*, determining the priority of data packets as being high priority or not high priority, scheduling packets to be high priority for transmission, and storing data packets determined to be not high priority in a buffer. Furthermore, each of amended independent Claims 1, 13, 25, and 36 recite, in paraphrase, *inter alia*, transmitting the data packets determined to be not high priority upon the occurrence of a full buffer condition. Beach does not disclose or suggest at least this feature of independent Claims 1, 13, 25, and 36.

In contrast, Beach discloses in paragraph [0005], "the transmitter and receiver of the mobile unit are powered down at intervals corresponding to the duration of audio or video

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/608,143  
FILED: June 30, 2003  
Page 9

signals forming an audio or video signal data packet." Furthermore, "data is accumulated in the mobile unit for a time interval corresponding to the selected period of time and used to form transmit data packets".

Accordingly, Applicants respectfully request that the rejection of independent Claims 1, 13, 25, and 36 under 35 U.S.C. § 102(e), as being anticipated by Beach should be withdrawn. Furthermore, each of Claims 2-4, 6, 10-12, 14-16, 18, 22-23, 26-29, and 37-39 is dependent from one of amended independent Claims 1, 13, 25, and 36 and includes all the feature of one of these amended independent claims as well as additional distinguishing features. Applicants respectfully submit that the patentability of Claims 2-4, 6, 10-12, 14-16, 18, 22-23, 26-29, and 37-39 follows directly from the patentability of amended independent Claims 1, 13, 25, and 36. Accordingly, the rejection of Claims 2-4, 6, 10-12, 14-16, 18, 22-23, 26-29, and 37-39 under 35 U.S.C. § 102(e), as being anticipated by Beach is respectfully requested to be withdrawn.

#### 35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected Claims 5 and 17 under 35 U.S.C. § 103(a), as being unpatentable over Beach et al (US Publication No. 2004/0072588 A1) in view of Kaikuranta et al. (US Patent No. 6,031,825).

Applicants respectfully submit that in view of the foregoing amendment, the rejection of Claims 5 and 17 under 35 U.S.C. § 103(a), as being unpatentable over Beach in view of Kaikuranta should be withdrawn.

Claim 5 and Claim 17 are dependent from amended independent Claim 1 and Claim 13, respectively, and include all the features of these amended independent claims as well as additional distinguishing features. The deficiency of Beach is not supplied by the teachings of the Kaikuranta reference; accordingly, Applicants respectfully submit that dependent Claims 5 and 17 are patentable over the Beach and Kaikuranta references alone, or in combination. Accordingly, the rejection of Claims 5 and 17 under 35 U.S.C. § 103(a), as being unpatentable over Beach in view of Kaikuranta is respectfully requested to be withdrawn.

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/608,143  
FILED: June 30, 2003  
Page 10

In addition, the Examiner rejected Claims 7-9 and 19-21 under 35 U.S.C. § 103(a), as being unpatentable over Beach et al (US Publication No. 2004/0072588 A1) in view of Beach (US Publication No. 2003/0086443 A1).

Applicants respectfully submit that because Claims 7-9 and 19-21 have been cancelled, this rejection is now moot.

Furthermore, the Examiner rejected Claims 30-35 under 35 U.S.C. § 103(a), as being unpatentable over Beach et al. (US Publication No. 2004/0072588 A1).

With regards to amended independent Claim 30, Applicants respectfully submit that Beach ('588) does not disclose or suggest at least some of the features of this claim. Accordingly, it is respectfully submitted that a prima facie case of obviousness cannot be established regarding amended independent Claim 30, and therefore the rejection under 35 U.S.C. § 103(a), as being unpatentable over Beach should be withdrawn.

Amended independent Claim 30 recites, in part, "a wireless communication device comprising...a transmitter to transmit...upon the occurrence of a full buffer condition, data packets determined to be not high priority."

There is no suggestion in Beach of a wireless communication device transmitting data packets determined to be not high priority upon the occurrence of a full buffer condition, as recited in amended independent Claim 30.

It is respectfully submitted that Beach does not disclose or fairly suggest a wireless communication device as claimed by amended independent Claim 30. Accordingly, it is respectfully submitted that a prima facie case of obviousness has not been established regarding amended independent Claim 30. Furthermore, Claims 31-35 are dependent from amended independent Claim 30 and include all the features of this amended independent claim as well as additional distinguishing features. Applicants respectfully submit that patentability of Claims 31-35 follows directly from the patentability of amended independent Claim 30. Accordingly, it is respectfully requested that the rejection of Claims 30-35 under U.S.C. § 103(a), as being unpatentable over Beach should be withdrawn.

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APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/608,143  
FILED: June 30, 2003  
Page 11

#### **New Claims**

New Claims 40 and 41 depend from amended independent Claims 1 and 13, respectively, and include all the limitations of that claim as well as additional distinguishing features. Therefore, Applicants respectfully submit that Claims 40 and 41 are likewise patentable at least for the reasons discussed above with reference to amended independent Claims 1 and 13.

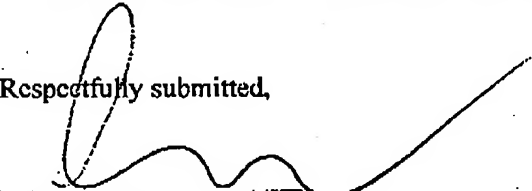
#### **Conclusion**

In view of the foregoing amendments and remarks, and for at least the reasons discussed above, applicants respectfully submit that the pending claims are allowable. Their favorable reconsideration and allowance are respectfully requested.

The Examiner is invited to telephone the undersigned to discuss any outstanding matters with respect to the present application.

Except for the fees for the Request for Continued Examination and the one month extension of time, no fees are believed to be due in connection with this paper. However, if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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